

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 2:15-cr-04268-JB

ANGEL DELEON, et al.,

Defendants.

**ANTHONY RAY BACA'S MOTION FOR EXTENSION OF TIME TO PROVIDE
EXPERT WITNESS NOTICES AND REPORTS**

Defendant Anthony Ray Baca respectfully requests an extension of time within which to file scientific expert notices and reports related to (1) examinations of electronic recording devices (including cellphones) and recordings, and (2) handwriting comparisons. As grounds for this request, Mr. Baca states as follows:

1. Pursuant to this Court's Third Scheduling Order, scientific expert witness notices and reports are due today. [Doc. 790 at 1.]

2. Earlier today, Mr. Baca filed a notice of joinder in three of Defendant Rudy Perez's expert disclosures. [Doc. 1054.] In addition to these experts, Mr. Baca has identified two areas in which he may seek to introduce expert testimony: (a) examinations of electronic recording devices (including cellphones) and recordings, and (b) handwriting comparisons. For the reasons discussed below, however, he is not yet in a position to disclose these experts or their reports.

3. With respect to the examinations of electronic recording devices and recordings, Mr. Baca has repeatedly asked the government to allow him physical access to the recording devices used by informants and cooperating witnesses to record various

conversations disclosed in discovery. The government has denied these requests. Thus, earlier today, Mr. Baca filed a motion to compel the government to allow the access he seeks. [Doc. 1053.] The government opposes that motion.

4. Until Mr. Baca is given access to these recording devices, he is not in position to know whether he needs to retain an expert, much less to disclose what that expert's opinions might be. Thus, he is seeking a continuance of the scientific expert witness deadline until after the Court rules on his discovery motion and he is able to access the relevant devices.

5. With respect to the handwriting comparisons, the government has disclosed documents that it allegedly seized from Mr. Baca's cell, which it claims are SNM organizational documents. Mr. Baca is communicating with the government to determine whether it intends to introduce these documents at the upcoming trial and, if so, whether it claims that Mr. Baca authored the documents. The government has not yet given Mr. Baca its answers. If the government's answers to both questions are yes, Mr. Baca intends to retain a handwriting expert to examine those documents and offer an opinion as to whether Mr. Baca wrote them.

6. Undersigned counsel has conferred with the government and counsel for the other defendants regarding this motion. AUSA Maria Armijo indicated the government does not oppose the requested extension "as long as (1) the trial date is not pushed back because of this and (2) it is for these two examinations." The other defendants have indicated no objection.

CONCLUSION

For the foregoing reasons, Defendant Anthony Ray Baca respectfully requests an extension of time within which to file scientific expert notices and reports related to (1) examinations of electronic recording devices (including cellphones) and recordings, and (2) handwriting comparisons, until a date after the Court has ruled on his motion to compel discovery [Doc. 1053].

Respectfully submitted,

/s/ Theresa M. Duncan
Theresa M. Duncan
Theresa M. Duncan, Esq.
515 Granite NW
Albuquerque, NM 87102
505-842-5196
teri@duncanearnest.com

AND

ROTHSTEIN DONATELLI, LLP

/s/ Marc M. Lowry
MARC M. LOWRY
500 Fourth Street NW, Suite 400
Albuquerque, NM 87102
(505) 243-1443
mlowry@rothsteinlaw.com

Attorneys for Anthony Ray Baca

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of April 2017, I filed the foregoing pleading electronically through the CM/ECF system, which caused counsel for Plaintiff and Defendants to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

/s/ Theresa M. Duncan
Theresa M. Duncan